

REMARKS/ARGUMENTS

With this amendment, claims 1-6 and 14-17 are pending; claims 7-13 are withdrawn. Claim 17 is amended to correct an obvious punctuation error. This amendment adds no new matter.

In response to the Restriction Requirement mailed October 1, 2003, Applicants elect with traverse Group II, claims 1-6 and 14-17, drawn to a method for semi-continuous culture of transformed plant cells comprising a heterologous expression cassette. Applicants traverse the restriction of Group I, drawn to a method for semi-continuous culture of untransformed plant cells. Applicants also point out that claim 1 is a linking claim.

The foregoing election is made with traverse, as Groups I and II set forth by the Examiner all stem from a common concept and theory, and are thus related. As indicated above, Group II is drawn to methods culturing plant cells, *i.e.*, transformed plant cells, and Group I is also drawn to methods of culturing plant cells, *i.e.*, untransformed plant cells. Thus, the methods of Groups I and II include same culture conditions and methods of exchanging media. As such, prosecution of the claims of Groups I and II would not place a substantially greater burden on the Examiner.

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. See, *e.g.*, MPEP at 803. In establishing that an “undue burden” would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. To show undue burden resulting from searching difficulties, the Examiner must show that the restricted groups have a separate classification; have acquired a separate status in the art, if the groups are classified together; or that searching would require different fields of search (MPEP at 808.02).

Applicants respectfully submit that Groups I and II can readily be searched without undue burden because a search for one group will identify art pertaining to the other

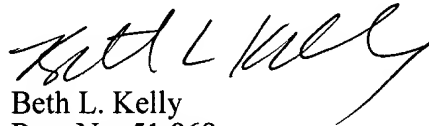
group. Applicants therefore respectfully request that the Examiner withdraw the Restriction Requirement and consider Groups I and II together.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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